



Federal Communications Commission
Washington, D.C. 20554

May 27, 2009

DA 09-1158

Small Entity Compliance Guide

Assessment and Collection of Regulatory Fees for Fiscal Year 2008

Report and Order
FCC 08-182
Released August 26, 2008

Second Report and Order (International Bearer Circuit Fees)
FCC 09-21
Released May 12, 2009

MD Docket No. 08-65

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket. This Guide is not intended to replace the rules, which provide the final authority in this context. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide might not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide. Any decisions regarding a particular small entity will be based on application of the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may revise this Guide without public notice to clarify or update its contents. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

**1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 202-418-0521
fccinfo@fcc.gov**

Assessment and Collection of FY 2008 Regulatory Fees

Per Section 9 of the Communications Act of 1934 (the Act), as amended, Congress mandates the Commission to assess and collect regulatory fees to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities.¹ Most Section 9 regulatory fees are assessments that are paid annually, which for FY 2008 are due no later than September 25, 2008, but a component of Section 9 regulatory fees involving small wireless services require payment of all regulatory fees up front for the entire term of the license. For these small wireless services, regulatory fees are due at the time a new license is obtained or renewed. Information regarding who must pay regulatory fees by service category is listed below:

Payment of Regulatory Fees

- **Media Services:** Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2007 for AM/FM radio stations, VHF/UHF television stations and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2007. In instances where a permit or license is transferred or assigned after October 1, 2007, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- **Wireline (Common Carrier) Services:** Regulatory fees must be paid for authorizations that were granted on or before October 1, 2007. In instances where a permit or license is transferred or assigned after October 1, 2007, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- **Wireless Services:** Commercial Mobile Radio cellular, mobile, and messaging services (fees based upon a subscriber, unit or telephone number): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2007. The number of subscribers, units or telephone numbers on December 31, 2007 will be used as the basis from which to calculate the fee payment.
- **Multi-Year Wireless Services:** The first eleven regulatory fee categories in our Schedule of Regulatory Fees (see Attachment C) pay what we refer to as "small multi-year wireless regulatory fees." Entities pay these regulatory fees in advance for the entire amount of their five-year or 10-year term of initial license, and only pay regulatory fees again for the license at the time of its next renewal. We include these eleven categories in our Schedule of Regulatory Fees to publicize the fee amounts for each year; however, we do not actually collect these fees on an annual basis.
- **Multichannel Video Programming Distributor Services (cable television operators and CARS licensees):** Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2007.² Regulatory fees must also be paid for CARS licenses

¹ 47 U.S.C 159(a).

² Cable television system operators should compute their basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on "a typical day in the last full week" of December 2007, rather than on a count as of December 31, 2007.

that were granted on or before October 1, 2007. In instances where a CARS license is transferred or assigned after October 1, 2007, responsibility for payment rests with the holder of the license as of the fee due date.

- **International Services:** Regulatory fees must be paid for earth stations, geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2007. In instances where a license is transferred or assigned after October 1, 2007, responsibility for payment rests with the holder of the license as of the fee due date. Regulatory fees must be paid for international bearer circuits, the payments of which are determined by the number of active circuits as of December 31, 2007.³
 - **NOTE on Fees for International Bearer Circuits:** The FCC adopted a new methodology for calculating regulatory fees for international submarine cable operators in a Second Report and Order in MD Docket No. 08-65. The Order was publicly released on March 24, 2009. Beginning in FY 2009, the FCC will calculate regulatory fees for international submarine cable operators on a per cable landing license basis, with higher fees being assessed for larger submarine cable systems and lower fees for smaller systems. However, this change in methodology does not amend the licensing rules regarding submarine cable systems, nor does it change the methodology on how the Commission calculates regulatory fees for terrestrial and satellite facilities—these facilities will continue to be assessed on a per 64 kbps circuit basis.⁴

Recordkeeping Requirements

- Licensees are responsible for submitting all payments and payment documents accurately, and on a timely basis, including Remittance Form 159, to avoid processing delays.
- Licensees who claim exemption from regulatory fees because of non-profit status are required to have a current IRS Determination letter or equivalent on file with the Commission.

³ Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active international bearer circuits in any transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. Non-common carrier submarine cable operators are also to pay fees for any and all international bearer circuits sold on an indefeasible right of use (“IRU”) basis or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2001*, MD Docket No. 01-76, Report and Order, 16 FCC Rcd 13525, 13593 (2001); *Regulatory Fees Fact Sheet: What You Owe – International and Satellite Services Licensees for FY 2004* at 3 (rel. July 2004) (the fact sheet is available on the Commission’s web-site at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-249904A4.pdf).

⁴ Under Section 9(b)(4)(B) of the Communications Act, the FCC must notify Congress 90 days before this change to the international bearer circuit regulatory fees can take effect. The 90 day period will elapse as of July 15, 2009. If the 90 day period elapses without Congressional objection to the permitted amendment, the FCC will use the new methodology to calculate submarine cable fees in the FY 2009 Assessment and Collection of Regulatory Fees report and order. When the Small Entity Compliance Guide for the 2009 Order is released, it will reflect these changes.

- In instances where a payment has not been accurately posted, the licensee has the responsibility to provide proof of regulatory fee payment, including but not limited to, copies of cancelled checks and a copy of Remittance Form 159.

Enforcement

- Per section 159(c) of the Act, we are required to impose an additional charge as a penalty for late payment of any regulatory fee. As in years past, a late payment penalty of 25 percent of the amount of the required regulatory fee will be assessed on the first day following the deadline date for paying regulatory fees. Regulatory fee payment must be received and stamped at the lockbox bank by the last day of the regulatory fee filing window, and not merely postmarked by the last day of the window. Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including the Commission's Red Light Rule⁵ and the provisions set forth in the Debt Collection Improvement Act of 1996 ("DCIA").
- We also assess administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the related debt pursuant to the DCIA and 47 C.F.R. §1.1940(d) of the Commission's rules. These administrative processing charges will be assessed on any delinquent regulatory fee, in addition to the 25 percent late charge penalty. In case of partial payments (underpayments) of regulatory fees, the licensee will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or not timely paid, then the 25 percent late charge penalty (and other charges and/or sanctions, as appropriate) will be assessed on the portion that is not paid in a timely manner.
- Our regulatory fee rules provide that we will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made.⁶ Failure to pay regulatory fees can also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).

⁵ See 47 C.F.R. § 1.1910.

⁶ See 47 C.F.R. §§ 1.1161(c), 1.1164(f)(5), and 1.1910.

Related Documents and Links

Report and Order and Further Notice of Proposed Rulemaking, FCC 08-182,
73 Fed. Reg. 50201 (Aug. 26, 2008);
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-182A1.pdf

Second Report and Order, FCC 09-21,
74 Fed. Reg. 22104 (May 12, 2009);
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-21A1.pdf

The following Public Notices and Fact Sheets are available at <http://www.fcc.gov/fees/regfees.html>:

Public Notice: Payment Methods and Procedures for FY 2008 Regulatory Fees

Fact Sheet: What You Owe – Cable Television Systems—FY 2008

Fact Sheet: What You Owe – Media Services Licensees—FY 2008

Fact Sheet: What You Owe – Commercial Wireless Services—FY 2008

Fact Sheet: What You Owe – International and Satellite Services Licensees—FY 2008

Fact Sheet: What You Owe – Interstate Telecommunications Service Providers (ITSP)—FY 2008

Fact Sheet: Use of the FCC Registration Number (FRN) is Mandatory—FY 2008

Fact Sheet: Waivers, Reductions and Deferrals of Regulatory Fees—FY 2008

Fact Sheet: Regulatory Fee Exemptions—FY 2008

AM & FM Fees Listing – Listing of FY 2008 Regulatory Fees by Call Sign and Facility Id. No.

Licensees can also contact the Commission's Financial Operations Help Desk regarding regulatory fees at (877) 480-3201, Option 4, or E-Mail your inquiries to ARINQUIRIES@FCC.GOV.